

106TH CONGRESS
2D SESSION

S. 692

IN THE HOUSE OF REPRESENTATIVES

JANUARY 27, 2000

Referred to the Committee on the Judiciary

AN ACT

To prohibit Internet gambling, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Internet Gambling
5 Prohibition Act of 1999”.

1 **SEC. 2. PROHIBITION ON INTERNET GAMBLING.**

2 (a) IN GENERAL.—Chapter 50 of title 18, United
3 States Code, is amended by adding at the end the fol-
4 lowing:

5 **“§ 1085. Internet gambling**

6 “(a) DEFINITIONS.—In this section:

7 “(1) BETS OR WAGERS.—The term ‘bets or
8 wagers’—

9 “(A) means the staking or risking by any
10 person of something of value upon the outcome
11 of a contest of others, a sporting event, or a
12 game of chance, upon an agreement or under-
13 standing that the person or another person will
14 receive something of value based on that out-
15 come;

16 “(B) includes the purchase of a chance or
17 opportunity to win a lottery or other prize
18 (which opportunity to win is predominantly sub-
19 ject to chance);

20 “(C) includes any scheme of a type de-
21 scribed in section 3702 of title 28; and

22 “(D) does not include—

23 “(i) a bona fide business transaction
24 governed by the securities laws (as defined
25 in section 3(a)(47) of the Securities Ex-
26 change Act of 1934 (15 U.S.C.

78c(a)(47))) for the purchase or sale at a future date of securities (as defined in section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(10)));

“(ii) a transaction on or subject to the rules of a contract market designated pursuant to section 5 of the Commodity Exchange Act (7 U.S.C. 7);

“(iii) a contract of indemnity or guarantee; or

“(iv) a contract for life, health, or accident insurance.

“(2) CLOSED-LOOP SUBSCRIBER-BASED SERVICE.—The term ‘closed-loop subscriber-based service’ means any information service or system that uses—

“(A) a device or combination of devices—

“(i) expressly authorized and operated in accordance with the laws of a State, exclusively for placing, receiving, or otherwise making a bet or wager described in subsection (f)(1)(B); and

“(ii) by which a person located within any State must subscribe and be registered with the provider of the wagering service by name, address, and appropriate billing

1 information to be authorized to place, re-
 2 ceive, or otherwise make a bet or wager,
 3 and must be physically located within that
 4 State in order to be authorized to do so;

5 “(B) an effective customer verification and
 6 age verification system, expressly authorized
 7 and operated in accordance with the laws of the
 8 State in which it is located, to ensure that all
 9 applicable Federal and State legal and regu-
 10 latory requirements for lawful gambling are
 11 met; and

12 “(C) appropriate data security standards
 13 to prevent unauthorized access by any person
 14 who has not subscribed or who is a minor.

15 “(3) FOREIGN JURISDICTION.—The term ‘for-
 16 eign jurisdiction’ means a jurisdiction of a foreign
 17 country or political subdivision thereof.

18 “(4) GAMBLING BUSINESS.—The term ‘gam-
 19 bling business’ means—

20 “(A) a business that is conducted at a
 21 gambling establishment, or that—

22 “(i) involves—

23 “(I) the placing, receiving, or
 24 otherwise making of bets or wagers;
 25 or

1 “(II) the offering to engage in
 2 the placing, receiving, or otherwise
 3 making of bets or wagers;

4 “(ii) involves 1 or more persons who
 5 conduct, finance, manage, supervise, direct,
 6 or own all or part of such business; and

7 “(iii) has been or remains in substan-
 8 tially continuous operation for a period in
 9 excess of 10 days or has a gross revenue
 10 of \$2,000 or more from such business dur-
 11 ing any 24-hour period; and

12 “(B) any soliciting agent of a business de-
 13 scribed in subparagraph (A).

14 “(5) INFORMATION ASSISTING IN THE PLACING
 15 OF A BET OR WAGER.—The term ‘information as-
 16 sisting in the placing of a bet or wager’—

17 “(A) means information that is intended
 18 by the sender or recipient to be used by a per-
 19 son engaged in the business of betting or wa-
 20 gering to place, receive, or otherwise make a bet
 21 or wager; and

22 “(B) does not include—

23 “(i) information concerning pari-
 24 mutuel pools that is exchanged exclusively
 25 between or among 1 or more racetracks or

1 other parimutuel wagering facilities li-
2 censed by the State or approved by the for-
3 eign jurisdiction in which the facility is lo-
4 cated, and 1 or more parimutuel wagering
5 facilities licensed by the State or approved
6 by the foreign jurisdiction in which the fa-
7 cility is located, if that information is used
8 only to conduct common pool parimutuel
9 pooling under applicable law;

10 “(ii) information exchanged exclu-
11 sively between or among 1 or more race-
12 tracks or other parimutuel wagering facili-
13 ties licensed by the State or approved by
14 the foreign jurisdiction in which the facility
15 is located, and a support service located in
16 another State or foreign jurisdiction, if the
17 information is used only for processing
18 bets or wagers made with that facility
19 under applicable law;

20 “(iii) information exchanged exclu-
21 sively between or among 1 or more wager-
22 ing facilities that are located within a sin-
23 gle State and are licensed and regulated by
24 that State, and any support service, wher-
25 ever located, if the information is used only

1 for the pooling or processing of bets or wa-
 2 gers made by or with the facility or facili-
 3 ties under applicable State law;

4 “(iv) any news reporting or analysis
 5 of wagering activity, including odds, racing
 6 or event results, race and event schedules,
 7 or categories of wagering; or

8 “(v) any posting or reporting of any
 9 educational information on how to make a
 10 bet or wager or the nature of betting or
 11 wagering.

12 “(6) INTERACTIVE COMPUTER SERVICE.—The
 13 term ‘interactive computer service’ means any infor-
 14 mation service, system, or access software provider
 15 that operates in, or uses a channel or instrumen-
 16 tality of, interstate or foreign commerce to provide
 17 or enable access by multiple users to a computer
 18 server, including specifically a service or system that
 19 provides access to the Internet.

20 “(7) INTERACTIVE COMPUTER SERVICE PRO-
 21 VIDER.—The term ‘interactive computer service pro-
 22 vider’ means any person that provides an interactive
 23 computer service, to the extent that such person of-
 24 fers or provides such service.

1 “(8) INTERNET.—The term ‘Internet’ means
2 the international computer network of both Federal
3 and non-Federal interoperable packet switched data
4 networks.

5 “(9) PERSON.—The term ‘person’ means any
6 individual, association, partnership, joint venture,
7 corporation (or any affiliate of a corporation), State
8 or political subdivision thereof, department, agency,
9 or instrumentality of a State or political subdivision
10 thereof, or any other government, organization, or
11 entity (including any governmental entity (as defined
12 in section 3701(2) of title 28)).

13 “(10) PRIVATE NETWORK.—The term ‘private
14 network’ means a communications channel or chan-
15 nels, including voice or computer data transmission
16 facilities, that use either—

17 “(A) private dedicated lines; or

18 “(B) the public communications infrastruc-
19 ture, if the infrastructure is secured by means
20 of the appropriate private communications tech-
21 nology to prevent unauthorized access.

22 “(11) STATE.—The term ‘State’ means a State
23 of the United States, the District of Columbia, the
24 Commonwealth of Puerto Rico, or a commonwealth,
25 territory, or possession of the United States.

1 “(12) SUBSCRIBER.—The term ‘subscriber’—

2 “(A) means any person with a business re-
 3 lationship with the interactive computer service
 4 provider through which such person receives ac-
 5 cess to the system, service, or network of that
 6 provider, even if no formal subscription agree-
 7 ment exists; and

8 “(B) includes registrants, students who are
 9 granted access to a university system or net-
 10 work, and employees or contractors who are
 11 granted access to the system or network of
 12 their employer.

13 “(b) INTERNET GAMBLING.—

14 “(1) PROHIBITION.—Subject to subsection (f),
 15 it shall be unlawful for a person engaged in a gam-
 16 bling business knowingly to use the Internet or any
 17 other interactive computer service—

18 “(A) to place, receive, or otherwise make a
 19 bet or wager; or

20 “(B) to send, receive, or invite information
 21 assisting in the placing of a bet or wager.

22 “(2) PENALTIES.—A person engaged in a gam-
 23 bling business who violates this section shall be—

24 “(A) fined in an amount equal to not more
 25 than the greater of—

1 “(i) the total amount that such person
2 bet or wagered, or placed, received, or ac-
3 cepted in bets or wagers, as a result of en-
4 gaging in that business in violation of this
5 section; or

6 “(ii) \$20,000;

7 “(B) imprisoned not more than 4 years; or

8 “(C) both.

9 “(3) PERMANENT INJUNCTIONS.—Upon convic-
10 tion of a person under this section, the court may
11 enter a permanent injunction enjoining such person
12 from placing, receiving, or otherwise making bets or
13 wagers or sending, receiving, or inviting information
14 assisting in the placing of bets or wagers.

15 “(c) CIVIL REMEDIES.—

16 “(1) JURISDICTION.—The district courts of the
17 United States shall have original and exclusive juris-
18 diction to prevent and restrain violations of this sec-
19 tion by issuing appropriate orders in accordance
20 with this section, regardless of whether a prosecu-
21 tion has been initiated under this section.

22 “(2) PROCEEDINGS.—

23 “(A) INSTITUTION BY FEDERAL GOVERN-
24 MENT.—

1 “(i) IN GENERAL.—The United States
2 may institute proceedings under this sub-
3 section to prevent or restrain a violation of
4 this section.

5 “(ii) RELIEF.—Upon application of
6 the United States under this subpara-
7 graph, the district court may enter a tem-
8 porary restraining order or an injunction
9 against any person to prevent or restrain a
10 violation of this section if the court deter-
11 mines, after notice and an opportunity for
12 a hearing, that there is a substantial prob-
13 ability that such violation has occurred or
14 will occur.

15 “(B) INSTITUTION BY STATE ATTORNEY
16 GENERAL.—

17 “(i) IN GENERAL.—The attorney gen-
18 eral of a State (or other appropriate State
19 official) in which a violation of this section
20 allegedly has occurred or will occur, after
21 providing written notice to the United
22 States, may institute proceedings under
23 this subsection to prevent or restrain the
24 violation.

1 “(ii) RELIEF.—Upon application of
2 the attorney general (or other appropriate
3 State official) of an affected State under
4 this subparagraph, the district court may
5 enter a temporary restraining order or an
6 injunction against any person to prevent or
7 restrain a violation of this section if the
8 court determines, after notice and an op-
9 portunity for a hearing, that there is a
10 substantial probability that such violation
11 has occurred or will occur.

12 “(C) PROCEEDINGS BY A SPORTS ORGANI-
13 ZATION.—A professional sports organization or
14 an amateur sports organization (as those terms
15 are defined in section 3701 of title 28) whose
16 games, or the performances of whose athletes in
17 such games, are alleged to be the basis of a vio-
18 lation of this section, may, after providing writ-
19 ten notice to the United States, institute civil
20 proceedings in an appropriate district court of
21 the United States to prevent or restrain such
22 violation. Upon application of the professional
23 or amateur sports organization, the district
24 court may enter any relief authorized by this
25 subsection in proceedings instituted thereunder

1 by the United States or a State Attorney Gen-
2 eral (or other appropriate State official). This
3 subparagraph does not authorize proceedings
4 against an interactive computer service provider
5 described in subsection (d)(1)(B).

6 “(D) INDIAN LANDS.—Notwithstanding
7 subparagraph (A), (B), or (C), for a violation
8 that is alleged to have occurred, or may occur,
9 on Indian lands (as defined in section 4 of the
10 Indian Gaming Regulatory Act (25 U.S.C.
11 2703))—

12 “(i) the United States shall have the
13 enforcement authority provided under sub-
14 paragraph (A); and

15 “(ii) in the case of an alleged violation
16 that involves class III gaming (as defined
17 in section 4 of the Indian Gaming Regu-
18 latory Act (25 U.S.C. 2703)), the enforce-
19 ment authorities specified in an applicable
20 Tribal-State compact negotiated under sec-
21 tion 11 of the Indian Gaming Regulatory
22 Act (25 U.S.C. 2710) shall be carried out
23 in accordance with that compact.

24 “(E) EXPIRATION.—Any temporary re-
25 straining order or preliminary injunction en-

1 tered pursuant to subparagraph (A) or (B)
2 shall expire if, and as soon as, the United
3 States, or the attorney general (or other appro-
4 priate State official) of the State, as applicable,
5 notifies the court that issued the order or in-
6 junction that the United States or the State, as
7 applicable, will not seek a permanent injunc-
8 tion.

9 “(3) EXPEDITED PROCEEDINGS.—

10 “(A) IN GENERAL.—In addition to any
11 proceeding under paragraph (2), a district court
12 may, in exigent circumstances, enter a tem-
13 porary restraining order against a person al-
14 leged to be in violation of this section upon ap-
15 plication of the United States under paragraph
16 (2)(A), or the attorney general (or other appro-
17 priate State official) of an affected State under
18 paragraph (2)(B), without notice and the op-
19 portunity for a hearing as provided in rule
20 65(b) of the Federal Rules of Civil Procedure
21 (except as provided in subsection (d)(3)), if the
22 United States or the State, as applicable, dem-
23 onstrates that there is probable cause to believe
24 that the use of the Internet or other interactive
25 computer service at issue violates this section.

1 “(B) HEARINGS.—A hearing requested
2 concerning an order entered under this para-
3 graph shall be held at the earliest practicable
4 time.

5 “(d) INTERACTIVE COMPUTER SERVICE PRO-
6 VIDERS.—

7 “(1) IMMUNITY FROM LIABILITY FOR USE BY
8 ANOTHER.—

9 “(A) IN GENERAL.—An interactive com-
10 puter service provider described in subpara-
11 graph (B) shall not be liable, under this section
12 or any other provision of Federal or State law
13 prohibiting or regulating gambling or gambling-
14 related activities, for the use of its facilities or
15 services by another person to engage in Internet
16 gambling activity that violates such law—

17 “(i) arising out of any transmitting,
18 routing, or providing of connections for
19 gambling-related material or activity (in-
20 cluding intermediate and temporary stor-
21 age in the course of such transmitting,
22 routing, or providing connections) by the
23 provider, if—

1 “(I) the material or activity was
2 initiated by or at the direction of a
3 person other than the provider;

4 “(II) the transmitting, routing,
5 or providing of connections is carried
6 out through an automatic process
7 without selection of the material or
8 activity by the provider;

9 “(III) the provider does not se-
10 lect the recipients of the material or
11 activity, except as an automatic re-
12 sponse to the request of another per-
13 son; and

14 “(IV) the material or activity is
15 transmitted through the system or
16 network of the provider without modi-
17 fication of its content; or

18 “(ii) arising out of any gambling-re-
19 lated material or activity at an online site
20 residing on a computer server owned, con-
21 trolled, or operated by or for the provider,
22 or arising out of referring or linking users
23 to an online location containing such mate-
24 rial or activity, if the material or activity
25 was initiated by or at the direction of a

1 person other than the provider, unless the
2 provider fails to take expeditiously, with
3 respect to the particular material or activ-
4 ity at issue, the actions described in para-
5 graph (2)(A) following the receipt by the
6 provider of a notice described in paragraph
7 (2)(B).

8 “(B) ELIGIBILITY.—An interactive com-
9 puter service provider is described in this sub-
10 paragraph only if the provider—

11 “(i) maintains and implements a writ-
12 ten or electronic policy that requires the
13 provider to terminate the account of a sub-
14 scriber of its system or network expedi-
15 tiously following the receipt by the provider
16 of a notice described in paragraph (2)(B)
17 alleging that such subscriber has violated
18 or is violating this section; and

19 “(ii) with respect to the particular
20 material or activity at issue, has not know-
21 ingly permitted its computer server to be
22 used to engage in activity that the provider
23 knows is prohibited by this section, with
24 the specific intent that such server be used
25 for such purpose.

1 “(2) NOTICE TO INTERACTIVE COMPUTER
2 SERVICE PROVIDERS.—

3 “(A) IN GENERAL.—If an interactive com-
4 puter service provider receives from a Federal
5 or State law enforcement agency, acting within
6 its authority and jurisdiction, a written or elec-
7 tronic notice described in subparagraph (B),
8 that a particular online site residing on a com-
9 puter server owned, controlled, or operated by
10 or for the provider is being used by another
11 person to violate this section, the provider shall
12 expeditiously—

13 “(i) remove or disable access to the
14 material or activity residing at that online
15 site that allegedly violates this section; or

16 “(ii) in any case in which the provider
17 does not control the site at which the sub-
18 ject material or activity resides, the pro-
19 vider, through any agent of the provider
20 designated in accordance with section
21 512(c)(2) of title 17, or other responsible
22 identified employee or contractor—

23 “(I) notify the Federal or State
24 law enforcement agency that the pro-

1 vider is not the proper recipient of
2 such notice; and

3 “(II) upon receipt of a subpoena,
4 cooperate with the Federal or State
5 law enforcement agency in identifying
6 the person or persons who control the
7 site.

8 “(B) NOTICE.—A notice is described in
9 this subparagraph only if it—

10 “(i) identifies the material or activity
11 that allegedly violates this section, and al-
12 leges that such material or activity violates
13 this section;

14 “(ii) provides information reasonably
15 sufficient to permit the provider to locate
16 (and, as appropriate, in a notice issued
17 pursuant to paragraph (3)(A) to block ac-
18 cess to) the material or activity;

19 “(iii) is supplied to any agent of a
20 provider designated in accordance with sec-
21 tion 512(c)(2) of title 17, if information
22 regarding such designation is readily avail-
23 able to the public;

24 “(iv) provides information that is rea-
25 sonably sufficient to permit the provider to

1 contact the law enforcement agency that
2 issued the notice, including the name of
3 the law enforcement agency, and the name
4 and telephone number of an individual to
5 contact at the law enforcement agency
6 (and, if available, the electronic mail ad-
7 dress of that individual); and

8 “(v) declares under penalties of per-
9 jury that the person submitting the notice
10 is an official of the law enforcement agency
11 described in clause (iv).

12 “(3) INJUNCTIVE RELIEF.—

13 “(A) IN GENERAL.—The United States, or
14 a State law enforcement agency acting within
15 its authority and jurisdiction, may, not less
16 than 24 hours following the issuance to an
17 interactive computer service provider of a notice
18 described in paragraph (2)(B), in a civil action,
19 obtain a temporary restraining order, or an in-
20 junction to prevent the use of the interactive
21 computer service by another person in violation
22 of this section.

23 “(B) LIMITATIONS.—Notwithstanding any
24 other provision of this section, in the case of
25 any application for a temporary restraining

1 order or an injunction against an interactive
2 computer service provider described in para-
3 graph (1)(B) to prevent a violation of this
4 section—

5 “(i) arising out of activity described in
6 paragraph (1)(A)(i), the injunctive relief is
7 limited to—

8 “(I) an order restraining the pro-
9 vider from providing access to an
10 identified subscriber of the system or
11 network of the interactive computer
12 service provider, if the court deter-
13 mines that there is probable cause to
14 believe that such subscriber is using
15 that access to violate this section (or
16 to engage with another person in a
17 communication that violates this sec-
18 tion), by terminating the specified ac-
19 count of that subscriber; and

20 “(II) an order restraining the
21 provider from providing access, by
22 taking reasonable steps specified in
23 the order to block access, to a specific,
24 identified, foreign online location;

1 “(ii) arising out of activity described
2 in paragraph (1)(A)(ii), the injunctive re-
3 lief is limited to—

4 “(I) the orders described in
5 clause (i)(I);

6 “(II) an order restraining the
7 provider from providing access to the
8 material or activity that violates this
9 section at a particular online site re-
10 siding on a computer server operated
11 or controlled by the provider; and

12 “(III) such other injunctive rem-
13 edies as the court considers necessary
14 to prevent or restrain access to speci-
15 fied material or activity that is pro-
16 hibited by this section at a particular
17 online location residing on a computer
18 server operated or controlled by the
19 provider, that are the least burden-
20 some to the provider among the forms
21 of relief that are comparably effective
22 for that purpose.

23 “(C) CONSIDERATIONS.—The court, in de-
24 termining appropriate injunctive relief under
25 this paragraph, shall consider—

1 “(i) whether such an injunction, either
2 alone or in combination with other such in-
3 junctions issued, and currently operative,
4 against the same provider would signifi-
5 cantly (and, in the case of relief under sub-
6 paragraph (B)(ii), taking into account,
7 among other factors, the conduct of the
8 provider, unreasonably) burden either the
9 provider or the operation of the system or
10 network of the provider;

11 “(ii) whether implementation of such
12 an injunction would be technically feasible
13 and effective, and would not materially
14 interfere with access to lawful material at
15 other online locations;

16 “(iii) whether other less burdensome
17 and comparably effective means of pre-
18 venting or restraining access to the illegal
19 material or activity are available; and

20 “(iv) the magnitude of the harm likely
21 to be suffered by the community if the in-
22 junction is not granted.

23 “(D) NOTICE AND EX PARTE ORDERS.—

24 Injunctive relief under this paragraph shall not
25 be available without notice to the service pro-

vider and an opportunity for such provider to appear before the court, except for orders ensuring the preservation of evidence or other orders having no material adverse effect on the operation of the communications network of the service provider.

“(4) ADVERTISING OR PROMOTION OF NON-INTERNET GAMBLING.—

“(A) DEFINITIONS.—In this paragraph:

“(i) CONDUCTED.—With respect to a gambling activity, that activity is ‘conducted’ in a State if the State is the State in which the gambling establishment (as defined in section 1081) that offers the gambling activity being advertised or promoted is physically located.

“(ii) NON-INTERNET GAMBLING ACTIVITY.—The term ‘non-Internet gambling activity’ means—

“(I) a gambling activity in which the placing of the bet or wager is not conducted by the Internet; or

“(II) a gambling activity to which the prohibitions of this section do not apply.

1 “(B) IMMUNITY FROM LIABILITY FOR USE
2 BY ANOTHER.—

3 “(i) IN GENERAL.—An interactive
4 computer service provider described in
5 clause (ii) shall not be liable, under any
6 provision of Federal or State law prohib-
7 iting or regulating gambling or gambling-
8 related activities, or under any State law
9 prohibiting or regulating advertising and
10 promotional activities, for—

11 “(I) content, provided by another
12 person, that advertises or promotes
13 non-Internet gambling activity that
14 violates such law (unless the provider
15 is engaged in the business of such
16 gambling), arising out of any of the
17 activities described in paragraph
18 (1)(A) (i) or (ii); or

19 “(II) content, provided by an-
20 other person, that advertises or pro-
21 motes non-Internet gambling activity
22 that is lawful under Federal law and
23 the law of the State in which such
24 gambling activity is conducted.

1 “(ii) ELIGIBILITY.—An interactive
2 computer service is described in this clause
3 only if the provider—

4 “(I) maintains and implements a
5 written or electronic policy that re-
6 quires the provider to terminate the
7 account of a subscriber of its system
8 or network expeditiously following the
9 receipt by the provider of a notice de-
10 scribed in paragraph (2)(B) alleging
11 that such subscriber maintains a
12 website on a computer server con-
13 trolled or operated by the provider for
14 the purpose of engaging in advertising
15 or promotion of non-Internet gam-
16 bling activity prohibited by a Federal
17 law or a law of the State in which
18 such activity is conducted;

19 “(II) with respect to the par-
20 ticular material or activity at issue,
21 has not knowingly permitted its com-
22 puter server to be used to engage in
23 the advertising or promotion of non-
24 Internet gambling activity that the
25 provider knows is prohibited by a

1 Federal law or a law of the State in
2 which the activity is conducted, with
3 the specific intent that such server be
4 used for such purpose; and

5 “(III) at reasonable cost, offers
6 residential customers of the provider’s
7 Internet access service, if the provider
8 provides Internet access service to
9 such customers, computer software, or
10 another filtering or blocking system
11 that includes the capability of filtering
12 or blocking access by minors to online
13 Internet gambling sites that violate
14 this section.

15 “(C) NOTICE TO INTERACTIVE COMPUTER
16 SERVICE PROVIDERS.—

17 “(i) NOTICE FROM FEDERAL LAW EN-
18 FORCEMENT AGENCY.—If an interactive
19 computer service provider receives from a
20 Federal law enforcement agency, acting
21 within its authority and jurisdiction, a
22 written or electronic notice described in
23 paragraph (2)(B), that a particular online
24 site residing on a computer server owned,
25 controlled, or operated by or for the pro-

1 vider is being used by another person to
2 advertise or promote non-Internet gam-
3 bling activity that violates a Federal law
4 prohibiting or regulating gambling or gam-
5 bling-related activities, the provider shall
6 expeditiously take the actions described in
7 paragraph (2)(A) (i) or (ii) with respect to
8 the advertising or promotion identified in
9 the notice.

10 “(ii) NOTICE FROM STATE LAW EN-
11 FORCEMENT AGENCY.—If an interactive
12 computer service provider receives from a
13 State law enforcement agency, acting with-
14 in its authority and jurisdiction, a written
15 or electronic notice described in paragraph
16 (2)(B), that a particular online site resid-
17 ing on a computer server owned, con-
18 trolled, or operated by or for the provider
19 is being used by another person to adver-
20 tise or promote non-Internet gambling ac-
21 tivity that is conducted in that State and
22 that violates a law of that State prohib-
23 iting or regulating gambling or gambling-
24 related activities, the provider shall expedi-
25 tiously take the actions described in para-

graph (2)(A) (i) or (ii) with respect to the advertising or promotion identified in the notice.

“(D) INJUNCTIVE RELIEF.—The United States, or a State law enforcement agency, acting within its authority and jurisdiction, may, not less than 24 hours following the issuance to an interactive computer service provider of a notice described in paragraph (2)(B), in a civil action, obtain a temporary restraining order, or an injunction, to prevent the use of the interactive computer service by another person to advertise or promote non-Internet gambling activity that violates a Federal law, or a law of the State in which such activity is conducted that prohibits or regulates gambling or gambling-related activities, as applicable. The procedures described in paragraph (3)(D) shall apply to actions brought under this subparagraph, and the relief in such actions shall be limited to—

“(i) an order requiring the provider to remove or disable access to the advertising or promotion of non-Internet gambling activity that violates Federal law, or the law

1 of the State in which such activity is con-
2 ducted, as applicable, at a particular online
3 site residing on a computer server con-
4 trolled or operated by the provider;

5 “(ii) an order restraining the provider
6 from providing access to an identified sub-
7 scriber of the system or network of the
8 provider, if the court determines that such
9 subscriber maintains a website on a com-
10 puter server controlled or operated by the
11 provider that the subscriber is knowingly
12 using or knowingly permitting to be used
13 to advertise or promote non-Internet gam-
14 bling activity that violates Federal law or
15 the law of the State in which such activity
16 is conducted; and

17 “(iii) an order restraining the provider
18 of the content of the advertising or pro-
19 motion of such illegal gambling activity
20 from disseminating such advertising or
21 promotion on the computer server con-
22 trolled or operated by the provider of such
23 interactive computer service.

1 “(E) APPLICABILITY.—The provisions of
2 subparagraphs (C) and (D) do not apply to the
3 content described in subparagraph (B)(i)(II).

4 “(5) EFFECT ON OTHER LAW.—

5 “(A) IMMUNITY FROM LIABILITY FOR COM-
6 PLIANCE.—An interactive computer service pro-
7 vider shall not be liable for any damages, pen-
8 alty, or forfeiture, civil or criminal, under Fed-
9 eral or State law for taking in good faith any
10 action described in paragraph (2)(A) or (4)
11 (B)(ii)(I) or (C) to comply with a notice de-
12 scribed in paragraph (2)(B), or complying with
13 any court order issued under paragraph (3) or
14 (4)(C).

15 “(B) DISCLAIMER OF OBLIGATIONS.—
16 Nothing in this section may be construed to im-
17 pose or authorize an obligation on an inter-
18 active computer service provider described in
19 paragraph (1)(B)—

20 “(i) to monitor material or use of its
21 service; or

22 “(ii) except as required by a notice or
23 an order of a court under this subsection,
24 to gain access to, to remove, or to disable
25 access to material.

1 “(C) RIGHTS OF SUBSCRIBERS.—Nothing
 2 in this section may be construed to prejudice
 3 the right of a subscriber to secure an appro-
 4 priate determination, as otherwise provided by
 5 law, in a Federal court or in a State or local
 6 tribunal or agency, that the account of such
 7 subscriber should not be terminated pursuant
 8 to this subsection, or should be restored.

9 “(e) AVAILABILITY OF RELIEF.—The availability of
 10 relief under subsections (c) and (d) shall not depend on,
 11 or be affected by, the initiation or resolution of any action
 12 under subsection (b), or under any other provision of Fed-
 13 eral or State law.

14 “(f) APPLICABILITY.—

15 “(1) IN GENERAL.—Subject to paragraph (2),
 16 the prohibition in this section does not apply to—

17 “(A) any otherwise lawful bet or wager
 18 that is placed, received, or otherwise made
 19 wholly intrastate for a State lottery, or for a
 20 multi-State lottery operated jointly between 2
 21 or more States in conjunction with State lot-
 22 teries if—

23 “(i) each such lottery is expressly au-
 24 thorized, and licensed or regulated, under
 25 applicable State law;

1 “(ii) the bet or wager is placed on an
2 interactive computer service that uses a
3 private network;

4 “(iii) each person placing or otherwise
5 making that bet or wager is physically lo-
6 cated when such bet or wager is placed at
7 a facility that is open to the general public;
8 and

9 “(iv) each such lottery complies with
10 sections 1301 through 1304, and other ap-
11 plicable provisions of Federal law;

12 “(B) any otherwise lawful bet or wager
13 that is placed, received, or otherwise made on
14 an interstate or intrastate basis on a live horse
15 or a live dog race, or the sending, receiving, or
16 inviting of information assisting in the placing
17 of such a bet or wager, if such bet or wager,
18 or the transmission of such information, as ap-
19 plicable, is—

20 “(i) expressly authorized, and licensed
21 or regulated by the State in which such bet
22 or wager is received, under applicable Fed-
23 eral and such State’s laws;

24 “(ii) placed on a closed-loop sub-
25 scriber-based service;

1 “(iii) initiated from a State in which
 2 betting or wagering on that same type of
 3 live horse or live dog racing is lawful and
 4 received in a State in which such betting
 5 or wagering is lawful;

6 “(iv) subject to the regulatory over-
 7 sight of the State in which the bet or
 8 wager is received and subject by such
 9 State to minimum control standards for
 10 the accounting, regulatory inspection, and
 11 auditing of all such bets or wagers trans-
 12 mitted from 1 State to another; and

13 “(v) in the case of—

14 “(I) live horse racing, made in
 15 accordance with the Interstate Horse
 16 Racing Act of 1978 (15 U.S.C. 3001
 17 et seq.) and the requirements, if any,
 18 established by an appropriate legisla-
 19 tive or regulatory body of the State in
 20 which the bet or wager originates; or

21 “(II) live dog racing, subject to
 22 consent agreements that are com-
 23 parable to those required by the Inter-
 24 state Horse Racing Act of 1978, ap-
 25 proved by the appropriate State regu-

1 latory agencies, in the State receiving
 2 the signal, and in the State in which
 3 the bet or wager originates; or

4 “(C) any otherwise lawful bet or wager
 5 that is placed, received, or otherwise made for
 6 a fantasy sports league game or contest.

7 “(2) BETS OR WAGERS MADE BY AGENTS OR
 8 PROXIES.—

9 “(A) IN GENERAL.—Paragraph (1) does
 10 not apply in any case in which a bet or wager
 11 is placed, received, or otherwise made by the
 12 use of an agent or proxy using the Internet or
 13 an interactive computer service.

14 “(B) QUALIFICATION.—Nothing in this
 15 paragraph may be construed to prohibit the
 16 owner operator of a parimutuel wagering facil-
 17 ity that is licensed by a State from employing
 18 an agent in the operation of the account wager-
 19 ing system owned or operated by the parimutuel
 20 facility.

21 “(3) ADVERTISING AND PROMOTION.—The pro-
 22 hibition of subsection (b)(1)(B) does not apply to
 23 advertising or promotion of any activity that is not
 24 prohibited by subsection (b)(1)(A).

25 “(4) INDIAN GAMING.—

1 “(A) IN GENERAL.—Subject to paragraph
2 (2), the prohibition in this section does not
3 apply to any otherwise lawful bet or wager that
4 is placed, received, or otherwise made on any
5 game that constitutes class II gaming or class
6 III gaming (as those terms are defined in sec-
7 tion 4 of the Indian Gaming Regulatory Act, 25
8 U.S.C. 2703), or the sending, receiving, or in-
9 viting of information assisting in the placing of
10 any such bet or wager, as applicable, if—

11 “(i) the game is permitted under and
12 conducted in accordance with the Indian
13 Gaming Regulatory Act (25 U.S.C. 2701
14 et seq.);

15 “(ii) each person placing, receiving, or
16 otherwise making such bet or wager, or
17 transmitting such information, is phys-
18 ically located on Indian lands (as that term
19 is defined in section 4 of the Indian Gam-
20 ing Regulatory Act, 25 U.S.C. 2703) when
21 such person places, receives, or otherwise
22 makes the bet or wager, or transmits such
23 information;

1 “(iii) the game is conducted on a
2 closed-loop subscriber-based system or a
3 private network; and

4 “(iv) in the case of a game that con-
5 stitutes class III gaming—

6 “(I) the game is authorized
7 under, and is conducted in accordance
8 with, the respective Tribal-State com-
9 pacts (entered into and approved pur-
10 suant to section 11(d) of the Indian
11 Gaming Regulatory Act, 25 U.S.C.
12 2710) governing gaming activity on
13 the Indian lands, in each respective
14 State, on which each person placing,
15 receiving, or otherwise making such
16 bet or wager, or transmitting such in-
17 formation, is physically located when
18 such person places, receives, or other-
19 wise makes the bet or wager, or trans-
20 mits such information; and

21 “(II) each such Tribal-State com-
22 pact expressly provides that the game
23 may be conducted using the Internet
24 or other interactive computer service

1 only on a closed-loop subscriber-based
2 system or a private network.

3 “(B) ACTIVITIES UNDER EXISTING COM-
4 PACTS.—The requirement of subparagraph
5 (A)(iv)(II) shall not apply in the case of gaming
6 activity, otherwise subject to this section, that
7 was being conducted on Indian lands on Sep-
8 tember 1, 1999, with the approval of the State
9 gaming commission or like regulatory authority
10 of the State in which such Indian lands are lo-
11 cated, but without such required compact ap-
12 proval, until the date on which the compact
13 governing gaming activity on such Indian lands
14 expires (exclusive of any automatic or discre-
15 tionary renewal or extension of such compact),
16 so long as such gaming activity is conducted
17 using the Internet or other interactive computer
18 service only on a closed-loop subscriber-based
19 system or a private network. For purposes of
20 this subparagraph, the phrase ‘conducted on In-
21 dian lands’ shall refer to all Indian lands on
22 which any person placing, receiving, or other-
23 wise making a bet or wager, or sending, receiv-
24 ing, or inviting information assisting in the
25 placing of a bet or wager, is physically located

1 when such person places, receives, or otherwise
 2 makes the bet or wager, or sends, receives, or
 3 invites such information.

4 “(g) RULES OF CONSTRUCTION.—

5 “(1) NO IMMUNITY FROM PROSECUTION.—Ex-
 6 cept as provided in subsection (d), nothing in this
 7 section may be construed to create immunity from
 8 criminal prosecution under any provision of Federal
 9 or State law.

10 “(2) OTHER PROHIBITIONS AND REMEDIES.—

11 Nothing in this section may be construed to affect
 12 any prohibition or remedy applicable to a person en-
 13 gaged in a gambling business under any other provi-
 14 sion of Federal or State law.”.

15 (b) TECHNICAL AMENDMENT.—The analysis for
 16 chapter 50 of title 18, United States Code, is amended
 17 by adding at the end the following:

 “1085. Internet gambling.”.

18 **SEC. 3. REPORT ON ENFORCEMENT.**

19 Not later than 2 years after the date of enactment
 20 of this Act, the Attorney General shall submit to Congress
 21 a report, which shall include—

22 (1) an analysis of the problems, if any, associ-
 23 ated with enforcing section 1085 of title 18, United
 24 States Code, as added by section 2 of this Act;

1 (2) recommendations for the best use of the re-
 2 sources of the Department of Justice to enforce that
 3 section; and

4 (3) an estimate of the amount of activity and
 5 money that continue to be used to gamble on the
 6 Internet, despite the prohibition of section 1085 of
 7 title 18, United States Code, as added by section 2
 8 of this Act, together with—

9 (A) a detailed description of the factors
 10 contributing to successful evasion of that prohi-
 11 bition; and

12 (B) recommendations concerning means of
 13 closing the channels used to evade that prohibi-
 14 tion.

15 **SEC. 4. SEVERABILITY.**

16 If any provision of this Act, an amendment made by
 17 this Act, or the application of such provision or amend-
 18 ment to any person or circumstance is held to be unconsti-
 19 tutional, the remainder of this Act, the amendments made
 20 by this Act, and the application of this Act and the provi-
 21 sions of such amendments to any other person or cir-
 22 cumstance shall not be affected thereby.

Passed the Senate November 19, 1999.

Attest:

GARY SISCO,
Secretary.